



8011-01p
SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-68932; File No. SR-CBOE-2013-021)

February 14, 2013

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Amend the Text in the Exchange Fees Schedule

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the “Act”),¹ and Rule 19b-4 thereunder,² notice is hereby given that on February 6, 2013, Chicago Board Options Exchange, Incorporated (the “Exchange” or “CBOE”) filed with the Securities and Exchange Commission (the “Commission”) the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization’s Statement of the Terms of the Substance of the Proposed Rule Change

The Exchange is proposing to amend the text in the Fees Schedule. The text of the proposed rule change is available on the Exchange’s website (<http://www.cboe.com/AboutCBOE/CBOELegalRegulatoryHome.aspx>), at the Exchange’s Office of the Secretary, and at the Commission.

II. Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange is proposing to update the text in its Fees Schedule to clarify the fee exemptions in the "Index Options Rate Table." The proposed change in this filing is solely administrative and will not amend any current fees. Currently, the Index Options Rate Table Section of the Exchange Fee Schedule has two different customer transaction fees. Specifically, the Exchange charges a \$0.18 transaction fee per contract for all customer transactions in all index products excluding "SPX, SPXW, SRO, OEX, XEO, VIX and Volatility Indexes." In addition, however, in a recent rule filing, the Exchange has eliminated this customer transaction fee in XSP index option transactions.³ The Exchange is proposing to clarify in the second category that the \$0.18 transaction fee per contract is applicable to "All Index Products Excluding SPX, SPXW, SRO, OEX, XEO, VIX, XSP and VOLATILITY INDEXES."

The Exchange believes the proposed rule change will make it clear that there is no \$0.18 customer transaction fee per contract in transaction [sic] in XSP index options. The Exchange believes the proposed addition of rule text will provide greater clarity for customers. Thus, more customers may engage in XSP index options trading as a result of a greater awareness of the lower fees associated with such transactions. This would bring greater liquidity to the market, which benefits all market participants.

³ See SR-CBOE-2013-015 (January 30, 2013) (immediately effective rule change to eliminate the customer transaction fee for XSP index options).

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Securities Exchange Act of 1934 (the “Act”) and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.⁴ Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)⁵ requirements that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitation [sic] transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. Additionally, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)⁶ requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

In particular, the Exchange believes that the proposed rule change will promote just and equitable principles of trade by clarifying to Trading Permit Holders that there is no fee for customer transaction fees in XSP index option trading. Providing a clearer representation of fees in the Exchange fee schedule will remove any confusion that may exist with the current wording in the Fees Schedule. In addition, by making the fee waiver more explicit, the proposed rule change will encourage more customer transactions in XSP index options. The proposed changes are equitable and not unfairly discriminatory because bringing clarity to the Exchange Fees Schedule

⁴ 15 U.S.C. 78f(b).

⁵ 15 U.S.C. 78f(b)(5).

⁶ Id.

benefits all Trading Permit Holders. In addition, clarifying that there are not customer transaction fees in XSP index option trading would bring greater liquidity to the market, which benefits all market participants.

B. Self-Regulatory Organization's Statement on Burden on Competition

CBOE does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange does not believe the proposed administrative changes to the Exchange Fees Schedule will cause any unnecessary burden on intramarket competition because nothing is changing substantively. The Exchange is merely adding additional language to create more clarity. In addition, the Exchange does not believe the proposed rule change will cause any unnecessary burden on intermarket competition because the Fees Schedule will continue to function in the same way it currently does. The proposed changes are only administrative to clarify the Fees in the Exchange Fees Schedule.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

The Exchange neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act⁷ and paragraph (f) of Rule 19b-4⁸ thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

⁷ 15 U.S.C. 78s(b)(3)(A).

⁸ 17 C.F.R. 240.19b-4(f).

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic comments:

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an e-mail to rule-comments@sec.gov. Please include File Number SR-CBOE-2013-021 on the subject line.

Paper comments:

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street, NE, Washington, DC 20549-1090.

All submissions should refer to File Number SR-CBOE-2013-021. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet website (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street, NE, Washington, D.C. 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the

Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-CBOE-2013-021, and should be submitted on or before [insert date 21 days from publication in the Federal Register].

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.⁹

Kevin M. O'Neill
Deputy Secretary

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⁹ 17 CFR 200.30-3(a)(12).